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December 23, 2020

VIA CM/ECF

Hon. Noel L. Hillman, U.S.D.J.
Mitchell H. Cohen Bldg. & U.S. Courthouse
4th & Cooper Streets
Camden, New Jersey 08101

**Re: Johnson, et al. v. Murphy, et al.
Civil Action No. 1:20-cv-06750**

Dear Judge Hillman:

This office represents Defendants Philip D. Murphy, Gurbir S. Grewal, and Judith M. Persichilli in this action. As the Court is aware, Plaintiffs in this case assert a federal constitutional challenge to the Governor's Executive Order 128 ("EO 128"), arguing in large part that EO 128 violates the Contracts Clause and is not entitled to the usual deference in the Contracts Clause analysis because it exceeds the Governor's authority under state law. *See* Pls.' Opp. to Mot. to Dismiss, ECF No. 36.

We write to notify the Court that the same group of Plaintiffs (with one individual omitted) recently filed a state court action challenging EO 128, again arguing, among other state law claims, that EO 128 must be invalidated because it exceeds the Governor's authority under state law. A copy of the Complaint in *Kravitz, et al. v. Murphy, et al.*, No. CUM-L-774-20, is attached for the Court's reference. With this new filing, Plaintiffs are seeking to have two courts decide, at the same time, whether EO 128 is consistent with state law. The State's pending motion to dismiss explains why this Court should dispose of the pending federal claims (and grant the State the deference to which it is owed) without reaching the state law arguments, which are barred by sovereign immunity in this federal court. *See* ECF Nos. 26-1 at 14-18, 40 at 2-5. But should the Court find that those state law arguments are somehow relevant to resolution of the *federal* constitutional claims that are properly asserted here, the State respectfully requests that this Court defer ruling until the New Jersey court adjudicates these state law issues. This will avoid the risk of conflicting rulings as to whether EO 128 is consistent with state law.

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Thank you for your consideration.

Respectfully submitted,

GURBIR S. GREWAL
ATTORNEY GENERAL OF NEW JERSEY

By: /s/ Stuart M. Feinblatt
Stuart M. Feinblatt
Assistant Attorney General

cc: All counsel of record (Via CM/ECF)